IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

(1) WRIT PETITION NO.5387 OF 1995

1. The State of Maharashtra]
2. The Deputy Engineer,]
Public Works Sub-]
Division, Satara,]
Dist.Satara]..Petitioners

Vs.

1. Balu Vishnu Bhosale]
Resident of Yewateshwar]
Taluka and District]
Satara]
]
2. Smt.A.V.Palsule,]
Judge, Labour Court,]
Sangli, Dist.Sangli.]
]
3. Shri.A.P.Vibhute,]
Member, Industrial Court,]
Kolhapur.]..Respondents

WITH

(2) WRIT PETITION NO.5388 OF 1995

1. The State of Maharashtra]
2. The Deputy Engineer,]
Public Works Sub-]
Division, Satara,]
Dist. Satara]..Petitioners

Vs.

1. Pandurang Limbaji Madane]
residing at Sadar Bazar]
Satara]
]
2. Smt.A.V.Palsule,]
Judge, Labour Court,]
Sangli, Dist.Sangli.]
]
3. Shri.A.P.Vibhute,]
Member, Industrial Court,]
Kolhapur.]..Respondents

WITH

(3) WRIT PETITION NO.5389 OF 1995

1. The State of Maharashtra]
2. The Deputy Engineer,]
Public Works Sub-]
Division, Satara,]
Dist. Satara]..Petitioners

Vs.

1. Shri.Shripati Balu]
Sonawane, Godoli, Satara]
]
2. Smt.A.V.Palsule,]
Judge, Labour Court,]
Sangli, Dist.Sangli.]
]
3. Shri.A.P.Vibhute,]
Member, Industrial Court,]
Kolhapur.]..Respondents

WITH

(4) WRIT PETITION NO.5390 OF 1995

1. The State of Maharashtra]
2. The Deputy Engineer,]
Public Works Sub-]
Division, Satara,]
Dist.Satara]..Petitioners

Vs.

1. Shri.Ramakant Gajanan]
Gosavi, Nigadi,Taluka]
and District Satara]
]
2. Smt.A.V.Palsule,]
Judge, Labour Court,]
Sangli, Dist.Sangli.]
]
3. Shri.A.P.Vibhute,]
Member, Industrial Court,]
Kolhapur.]..Respondents

WITH

(5) WRIT PETITION NO.5391 OF 1995

1. The State of Maharashtra]
2. The Deputy Engineer,]
Public Works Sub-]
Division, Satara,]
Dist.Satara]..Petitioners

Vs.

1. Gangaram Dnyanu Mane,
Resident of Targaon
Taluka and Dist.Satara

2. Smt.A.V.Palsule,
Judge, Labour Court,
Sangli, Dist.Sangli.

3. Shri.A.P.Vibhute,
Member, Industrial Court,
Kolhapur. ..Respondents

WITH

(6) WRIT PETITION NO.5392 OF 1995

1. The State of Maharashtra
2. The Deputy Engineer,
Public Works Sub-
Division, Satara,
Dist.Satara ..Petitioners

Vs.

1. Nathoji Madhav Pise
residing at Koregaon
District Satara

2. Smt.A.V.Palsule,
Judge, Labour Court,
Sangli, Dist.Sangli.

3. Shri.A.P.Vibhute,
Member, Industrial Court,
Kolhapur. ..Respondents

WITH

(7) WRIT PETITION NO.5393 OF 1995

1. The State of Maharashtra
2. The Deputy Engineer,
Public Works Sub-
Division, Satara,
Dist.Satara ..Petitioners

Vs.

1. Shri.Sevagiri Jagannath
Ghadage, r/o Kondave,
Taluka Satara,
Dist.Satara

2. Smt.A.V.Palsule,

Judge, Labour Court,]
Sangli, Dist.Sangli.]
]
3. Shri.A.P.Vibhute,]
Member, Industrial Court,]
Kolhapur.]..Respondents

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Shri.S.K.Chinchalikar A.G.P. for
State
Shri.K.K.Jadhav Advocate for Respondent
in all the seven matters

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CORAM : B.H.MARLAPALLE,J.

DATE : JANUARY 20,2005

ORAL JUDGMENT:

1. All these petitions arise from a common judgment rendered by the learned Judge of the Labour Court at Sangli on 6th August, 1993 in Complaint (ULP) Nos.345 to 359 and 364 of 1992. The Petitioner-Department had moved separate Revision Applications under Section 44 of the MRTU and PULP Act, 1971 and by cryptic reasonings running into 6 to 7 lines, the learned Member of the Industrial Court at Kolhapur was pleased to dismissed all the Revision Applications on 6th December, 1994. Both these orders are assailed in these petitions and therefore, they have been decided by a common judgment.

2. On or about 10th July, 1992, the Deputy Engineer, Public Works Department, Sub-Division, Satara issued notices of retrenchment against the daily rated casual workers informing them that they would be

dispensed with from 9th August, 1992 on account of non-availability of work for which they were employed. This was infact a notice of retrenchment under Section 25-F of the Industrial Disputes Act, 1947 ('ID Act' for short) and the same came to be challenged by filing complaints of Unfair Labour Practice as stated hereinabove on or about 20th July, 1992. Applications for interim relief were also filed in each of the complaint and they were allowed. As a result thereof, the complainants continued to work under the Deputy Engineer Public Works Department, Sub-Division Satara. The Revision Applications filed by the Department challenging the interim orders below Exhibit-U-2 had also failed and under these circumstances, individual complainants inspite of retrenchment notice, remained in service as daily wagers.

3. The Department had filed Written Statement and opposed the complaints. It was pointed out that all the requirements of Section 25-F of the ID Act were duly complied with by issuing notice dated 10th July, 1992 and it was also pointed out that the complainants were served with these notices, where the junior most daily wagers are under that Sub-Division. The evidence was lead. The complainants had examined Shri.Chandrakant Marutrao Sakhare and Laxman Sadashiv Shelar and the Department

examined Shri.Mohinfraj Balkrishna Kulkarni. It was specifically stated by the Department's witness Shri.Kulkarni at Exhibit-C-4 that the Department had retrenched all the temporary workers, daily rated and N.M.R. etc. from service. This statement was not controverted by any plausible evidence or in the cross-examination of the said witness. However, the learned Judge of the Labour Court only picked up an admission that the Department had not displayed the seniority list and held that Rule 81 of the Industrial Disputes (Bombay) Rules, 1957 was not followed inasmuch as the seniority list was not displayed. The findings recorded by the Labour Court regarding non-compliance of the mandatory requirements of Section 25-F are unsustainable as they are perverse and the learned Member of the Industrial Court under his revisional powers failed to appreciate the same.

4. The retrenchment notice dated 10th July, 1992 is placed on record and it is stated as under:

A) The temporary employees will be discontinued from 20th July, 1992.

B) The work for which temporary employees were engaged, had come to an end and as there was no alternative work available they could not be retained further.

C) As they are junior most, they were being

dispensed with.

D) From the date of joining (15.1.1987) till the last date of employment i.e. 26th July, 1992 retrenchment compensation would be payable on the basis of the daily wage of Rs.31.20. The total amount of retrenchment compensation was worked out at Rs.2800/-.

. Initially it was informed that an amount of 811.20 was being offered by way of notice pay and an amount of Rs.2800/- by way of retrenchment compensation, thus making a total offer of Rs.3611-20. The notice was given one month in advance and they were informed that they would be dispensed with from 9th August, 1992. At the same time, payment of leave accumulated was also offered and they were informed that they could approach the Public Works Sub-Division at Satara at any time before 9th August, 1992 and while on duty and collect the amount of notice pay retrenchment compensation as well as the balance of wages and their pay etc. This notice had fully complied with the requirements of Section 25-F of the ID Act. The employment was to get over on 9th August, 1992 and the individual employees sought to be dispensed with, were free to approach the office and collect their compensation at any time before that date. The Department did not say that the money will be offered to them after the last day of their service. Department also went to the extent of giving them liberty to approach the office even

during the working hours at any time before the last date i.e. 9th August, 1992. The conditions precedent under Section 25-F were undoubtedly followed and in this regard, it would be useful to refer to the following two decisions of the Supreme Court:

1) Straw Board Manufacturing Company Ltd. Vs. Govind; A.I.R. 1962 S.C. 1500; and

2) The Management of Delhi Transport Undertaking Vs. The Industrial Tribunal Delhi and another; A.I.R. 1962 S.C. 1503.

6. Under these circumstances, the Labour Court fell in apparent errors and therefore, its findings that the requirements of Section 25-F of the ID Act, were not complied with, are required to be set aside. Failure to display the seniority list in the facts of this case, would not in any way, affect the case of the department as the witness while in the witness box had clearly stated that all the employees engaged as temporaries, N.M.Rs. and daily rated, were discontinued as there was no work available under Sub-Division. The Industrial Court was required to apply its mind to the contents of the retrenchment notice dated 10th July, 1992 which was a subject matter of challenge and set out its detailed

reasonings confirming the findings of the Labour Court or otherwise. As noted hereinabove, the Industrial Court gave a cryptic reasoning in few lines. The approach of the Industrial Court is grossly erroneous.

7. Though the orders impugned in these petitions are required to be set aside, it is clear that due to the interlocutory orders, the individual complainants remained in service and even as on today, they are continued under Sub-Division. The Deputy Engineer, Public Works Department, Sub-Division Satara, has addressed a letter dated 15th November, 2003 to Shri.K.K.Jadhav, the learned counsel for the respondents-workmen by referring to the Government Resolutions dated 24th April, 2001 and 13th March, 2003, it was pointed out that the complainants would be entitled for being taken on the C.R.T. establishment. It is apparent that the department was relying on ‘Kalelkar Award’ and consequently, the complainants would be absorbed on the C.R.T. establishment provided 12 petitions pending before this Court were disposed of. The learned A.G.P. states that he could not take due steps on account of lack of instructions from the Law and Judiciary Department.

8. In the result, the petitions succeed partly. The

impugned decisions of the labour Court dated 6th August, 1993 passed in Complaint (ULP) Nos. 359 of 1992, 347 of 1992, 364 of 1992, 353 of 1992, 350 of 1992, 354 of 1992 and 355 of 1992 and that of the Industrial Court dated 6th December, 1994 passed in Revision Application Nos. 151 of 1993, 146 of 1993, 145 of 1993, 144 of 1993, 143 of 1993, 148 of 1993 and 150 of 1993 are hereby quashed and set aside. However, as the complainants have been continued in service in the last more than 12 years or so, they shall be taken on C.R.T. establishment as proposed by the Deputy Engineer Public Work, vide his letter dated 15th November, 2003. Undoubtedly, they will be given all the benefits as applicable to the C.R.T. establishment. Rule made absolute partly with no order as to costs.

[B.H.MARLAPALLE,J.]